

ALHAMBRA SCHOOL DISTRICT

California Public Employment Relations Board

Alhambra Teachers Association, CTA/NEA, Charging Party, v. Alhambra School District, Respondent.

Docket No. LA-CE-1955

Order No. 491

March 1, 1985

Before Hesse, Chairperson; Jaeger and Morgenstern, Members

Unfair Practice Procedures -- Investigation And Complaint -- Remand On Request Of General Counsel -- 71.21 General Counsel's request for remand of unfair practice matter for further investigation granted.

APPEARANCES:

Michael R. White for Alhambra Teachers Association, CTA/NEA; O'Melveny & Myers by Catherine B. Hagen for Alhambra School District.

DECISION

JAEGER, Member.

The General Counsel has requested that this matter be remanded to him for further action. Based upon the record and the General Counsel's report to the Board, it is hereby ORDERED that this case be remanded to the General Counsel for further action consistent with the provisions of Regulation 32620.1

Member Morgenstern joined in this Decision.

1 Public Employment Relations Board Regulations are codified at California Administrative Code, title 8, section 31001, et seq.

HESSE, Chairperson, dissenting: I dissent. Remanding to the General Counsel for further investigation is not only unnecessary, it is time consuming and will cause the parties and this agency to expend an unknown amount of resources on a case that should be dismissed now. The record amply supports a finding that the employer's action on September 27, 1983, affected only benefits of current retirees and not future retirement benefits for active employees. As retirees are not considered employees under the Educational Employment Relations Act (see *San Leandro Unified School District* (12/6/84) PERB Dec. No. 450), and as I find no ambiguity in the record that necessitates a remand for further investigation, I dissent from the majority opinion.
